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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KJELL LINDSKOG

Appeal 2009-7425
Application 10/512,006
Technology Center 3600

Decided:¹ May 15, 2009

Before HUBERT C. LORIN, JOSEPH A. FISCHETTI, and
BIBHU R. MOHANTY, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF THE CASE

Kjell Lindskog (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM.²

THE INVENTION

The claimed invention relates to safe-storage devices for valuable documents comprising a destructive means that, when activated by an alarm, destroys the documents.

Sole independent claims 1 and 9, reproduced below, are illustrative of the subject matter on appeal.

1. A method for destroying valuable documents, including bank notes, stored within a storage space in the event of an attempt to gain access to said valuable documents without proper authorization, the steps of said method including:

storing said valuable documents in a collecting device (30) comprising a drum within a storage space;

winding said valuable documents on or off said drum with the aid of a carrier film or foil (40, 41);

housing said drum (30), at least partially, within a collecting vessel (50);

providing a destructive agent container (60, 63) containing a destructive agent in fluid communication with said collecting

² Our decision will make reference to the Appellant's Appeal Brief ("App. Br.", filed Jun. 2, 2008) and Reply Brief ("Reply Br.", filed Oct. 10, 2008), and the Examiner's Answer ("Answer," mailed Sep. 8, 2008).

vessel;

generating an alarm signal in response to an unauthorized attempt to access said valuable documents; and

applying said destructive agent from said destructive agent container into said collecting vessel and onto the valuable documents wound on said drum with the aid of said carrier film or foil in response to said alarm signal.

6. An arrangement for destroying valuable documents, including banknotes, stored within a storage space, said arrangement including a collecting device within said storage space for storing said valuable documents, said collecting device comprising a drum on which said valuable documents are wound with the aid of a carrier film or foil;

a collecting vessel for housing, at least in part, said collecting device;

a destructive agent container in fluid communication with said collecting vessel;

an alarm for detecting and generating an alarm signal in response to an attempted unauthorized access to said valuable documents; and

means for applying a destructive agent contained within said destructive agent container into said collecting vessel and onto said valuable documents wound on said drum in response to said alarm signal.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Lundblad US 6,497,186 B1 Dec. 24, 2002

The following rejections are before us for review:

1. Claims 1-9, 12, and 13 are rejected under 35 U.S.C. § 102(e) as being anticipated by Lundblad.

2. Claims 10, 11, and 14-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lundblad.

ARGUMENTS

The Appellant has only argued the anticipation rejection of independent claims 1 and 6. As to that rejection, the Appellant argued claims 1-9, 12, and 13 as a group (App. Br. 8-13). We select claim 1 as the representative claim for this group, and the remaining claims 2-9, 12, and 13 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

As to claim 1, the Examiner found that the method of claim 1 reads on Lundblad.

Lundblad teaches both an arrangement and a method of use in a depositing machine, including a storage space within the interior of casing 101, the casing having plural collecting devices defined as drums 30 for storing valuable documents on the drums with the aid of a carrier film or foil defined by the belts of column 2, line 14. Each drum is housed within a collecting vessel 11 -17, which collecting vessels 11 -17 are all located within the storage space interior of casing 101. The collecting vessel(s) receive the destructive agent when it is released from a destructive agent container 31 or 32 by an alarm signal. The fuses 3113 and 3213 in fig. 3 define a puncturing means for the nets 3113 and 3212 of the container 31, 32. At least one of the containers 31, 32 in fig. 3 is mounted above the bottom of the collecting vessel 11 -17 in which the drum(s) is mounted. Even if the device of fig. 3 were mounted horizontally within a vessel 11-17, at least a portion of the container(s) 31, 32 would be above the valuable documents and the bottom and an opening portion of the collecting vessel 11 -17.

(Ans. 3-4).

The Appellant argued that Lundblad does not teach or suggest all the elements of the process, in the arrangement claimed, as set forth in claim 1. Specifically, the Appellant argued that Lundblad does not teach or suggest:

1. “a collecting vessel in each storage space, arranged such that at least a part of the collecting device ... for containing valuable documents is received in the collecting vessel” (App. Br. 8); and,
2. “a destructive agent container in fluid communication with a collecting vessel to apply a destructive agent to the collecting vessel to destroy documents on the collecting device in response to a signal indicating an unauthorized attempt to gain access to the documents within the storage compartment” (App. Br. 8-9).

Instead, according to the Appellant, Lundblad “discloses a plurality of storage spaces, each of which includes units (11-16) containing valuable documents” (App. Br. 8) and

dye capsules, and detonation fuses for detonating the dye capsules to destroy the documents contained within the storage space in response to an unauthorized attempt to gain access to the documents within the storage compartment (See Column 2, lines 26 - 29 and Column 2, lines 35 - 37 of the Lundblad specification).

(App. Br. 9).

The Examiner had equated the units 11-17 of the Lundblad apparatus to the collection vessels of claim 1. (Final Rej. 4-5). The Appellant disagreed, arguing that “elements 11-17 of Lundblad are clearly comparable to the collecting devices disclosed and claimed by Applicant ... and not collecting vessels which are separate elements from the collecting devices.”

(App. Br. 10). According to the Appellant, elements 11-17 of Lundblad are “not collecting vessels for receiving a destructive agent in a destructive agent container in fluid communication with the collecting vessels.” (App. Br. 10.) .

The Appellant also argued that, even if elements 11-17 of Lundblad could be equated to the collection vessels of claim 1, claim 1 “nonetheless recite separate elements for the storage space, the collecting vessel, the collecting device, and the destructive agent container in fluid communication with the collecting vessel.” (App. Br. 10-11).

The Examiner responded by arguing that “[t]he Lundblad reference has been relied upon by the examiner as teaching one storage space (defined by the outer casing 101), one collecting device (defined by a drum 30) and one collecting vessel (defined by any of elements 11-17), each of which receives one of the drums.” (Ans. 5). According to the Examiner, this teaches separate storage, collecting vessel, collecting device, and destructive agent elements. (Ans. 6). The Examiner also stated that “it is resubmitted that the containers 31 or 32 of Lundblad clearly teach a destructive container in fluid communication with a collecting vessel, which collecting vessel is located below an associated drum.” (Ans. 5).

The Appellant replied that “interpreting independent Claims 1 and 6 to be limited to only a single storage space is an unreasonable interpretation of the claims.” (Reply Br. 2). “[T]he only reasonable interpretation of appealed independent Claims 1 and 6 is that it covers one or more units, each of said units having a storage space, a drum stored within the storage

space, the drum itself being housed, at least partially, within a collecting vessel.” (Reply Br. 3).

The Appellant also replied that, even if claim 1 could be interpreted as limited to one storage space, “the arrangement disclosed by Lundblad (a single storage 101 housing multiple drums and collecting vessels) in accordance with the interpretation of this reference made in the Examiner’s Answer, is clearly different in arrangement from the devices employed in the methods defined by appealed independent Claims 1 and 6 (e.g., a single storage space, a single drum, and a single collecting vessel) in accordance with the interpretation of independent Claims 1 and 6 made in the Examiner’s Answer.” (Reply Br. 3).

ISSUES

Has the Examiner given claim 1 the broadest reasonable construction in light of the Specification as it would be interpreted by one of ordinary skill in the art?

FINDINGS OF FACT

We find that the following enumerated findings of fact (FF) are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

Claim construction

1. Claim 1 calls for a “a collecting device (30) comprising a drum within a storage space.”
2. Accordingly, claim 1 requires the presence of a storage space, within

which is a collecting device comprising a drum.

3. Claim 1 calls for “housing said drum (30), at least partially, within a collecting vessel (50).”
4. Accordingly, claim 1 requires at least partially housing the drum within a collecting vessel.
5. Claim 1 calls “providing a destructive agent container (60, 63) containing a destructive agent in fluid communication with said collecting vessel.”
6. Accordingly, claim 1 requires the presence of a destructive agent container containing a destructive agent in fluid communication with the collecting vessel.

The prior art

7. Lundblad relates to safes for safekeeping of valuable documents comprising a device to destroy the valuable documents when an attempt to break into the safe is indicated. (Col. 1, ll. 44-50).
8. Lundblad describes a safe 1 having a shell 101 inside of which includes units 11-17 for accommodating valuable documents. (See Fig. 1. Col. 1, ll. 45-47).
9. The units 11-17 include destructive devices 112-162 that have a dye-containing part 1121-1621 and an explosive part 1122-1622. (See Fig. 2. Col. 1, ll. 61-64).
10. The destructive devices are set to ignite “in response to damage to the shell protection means 101 and also depending on whether respective units 11-16 contain banknotes or are empty.” (Col. 1, ll. 67-col. 2,

1. 2).
11. With reference to Fig. 3, Lundblad describes providing destructive devices 112, in form of stationary containers 31 and 32 fixed to the walls of the safe on either side of a drum 30 on which valuable documents are wound. (Col. 2, ll. 5-8).
 12. The containers 31 and 32 include circular peripheral recesses 311 and 312 for accommodating destructive material. (Col. 2, ll. 10-21).
 13. The recesses 311 and 312 have openings 3111 and 3211 that face the edges of the documents. (Col. 2, ll. 21-24).
 14. The recesses include destructive material in the form of dye and a detonation fuse 3113 and 3213 “for activation of the destructive material in the event of an attempt to break into the safe 1.” (Col. 2, ll. 28-29).

PRINCIPLES OF LAW

Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Obviousness

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said

subject matter pertains.”” *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations “might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 17-18.

ANALYSIS

The rejection of claims 1-9, 12, and 13 under §102(e) as being anticipated by Lundblad.

Claim 1 requires the use of a particular arrangement of elements comprising (a) a storage, (b) a collecting device, (c) a collecting vessel, and (e) a destructive agent container containing a destructive agent. As claimed, the storage contains the collecting device, the collecting vessel, and the destructive agent container. The collecting device comprises a drum and the drum is at least partially housed in a collecting vessel, the destructive agent container is in fluid communication with the collecting vessel. (FF 1-6).

We do not find, nor does the Appellant point to anything, in the Specification providing definitions for the claim terms “storage,” “collecting

device,” “collecting vessel,” and “destructive agent container” such that they should be given meanings other than their ordinary and customary meaning. Accordingly, we look to the words of the claim as they would be interpreted by one of ordinary skill in the art to determine whether the Examiner’s construction of these terms was reasonable. “Claim construction begins, as it must, with the words of the claims. *See Bell Communications Research, Inc. v. Vitalink Communications Corp.*, 55 F.3d 615, 619-20 (Fed. Cir. 1995).” *Vehicular Techs. Corp. v. Titan Wheel Int'l*, 141 F.3d 1084, 1088 (Fed. Cir. 1998).

Lundblad describes a safe having a shell. Inside the shell, is a unit, a drum, and a destructive agent container. The drum and destructive agent container are located within the unit. (FF 7-14).

The Examiner construes the claim term “storage” as broadly covering a shell, such as the one depicted in Lundblad. Since the Lundblad shell acts to confine the valuable documents and thereby cause the documents to be stored within the space it defines, we find the Examiner’s construction of the claim term “storage” to be reasonable. Accordingly, we agree with the Examiner that the Lundblad shell meets the claimed storage element.

The Examiner further construes the claim term “collecting device” as broadly covering a drum, such as the one depicted in Lundblad. Since the claim states “a collecting device (30) comprising a drum,” the Examiner’s construction of the claim term “collecting device” as broadly covering a drum is consistent with the broad language the claim uses. Accordingly, we agree with the Examiner that the Lundblad drum meets the claimed

“collecting device” element. Because the Lundblad drum is located within a storage (i.e., within the Lundblad shell), Lundblad necessarily also meets the claim limitation “a collecting device (30) comprising a drum within a storage space.”

Finally, the Examiner construes the claim term “collecting vessel” as broadly covering an element that contains the drum, such as elements 11-17 depicted in Fig. 1 of Lundblad. Since the claim calls for “housing said drum (30), at least partially, within a collecting vessel (50),” the Examiner’s construction of the claim term “collecting vessel” as broadly covering an element that contains the drum is consistent with the claim language.

Because the Lundblad elements 11-17 house the drum, Lundblad elements 11-17 meet the claimed “collecting vessel” element. Because the Lundblad elements 11-17 also include destructive agent containers that ignite upon activation such that the documents on the drum are destroyed, Lundblad necessarily also meets the claim limitation that of “providing a destructive agent container (60, 63) containing a destructive agent in fluid communication with said collecting vessel.”

Accordingly, we find the Examiner’s construction of the claim terms “storage,” “collecting device,” “collecting vessel,” and “destructive agent container” was reasonable. “The question then is whether the PTO’s interpretation of the disputed claim language is “reasonable.” … We conclude that the PTO’s interpretation is reasonable in light of all the evidence before the Board.” *In re Morris*, 127 F.3d 1048, 1055 (Fed. Cir. 1997).

The Appellant disputes that the claimed “collecting vessel” element broadly covers Lundblad elements 11-17. The Appellant would have us construe instead the claimed “collecting device” element as broadly covering Lundblad elements 11-17. According to the Appellant, the claimed “collecting vessel” element could not be construed to broadly cover Lundblad elements 11-17 because elements 11-17 of Lundblad are “not collecting vessels for receiving a destructive agent in a destructive agent container in fluid communication with the collecting vessels.” (App. Br. 10). We disagree. For the reasons stated, we agree with the Examiner’s reasonable construction of the claim term “collecting device” element as broadly covering a drum and the claim term “collecting vessel” element as broadly covering a housing that contains the drum, such as elements 11-17 of Lundblad.

The Appellant has also contended that the arrangement of the elements set forth in claim 1 is such that there is employed “a single storage space, a single drum, and a single collecting vessel” (Reply Br. 3) and this distinguishes from Lundblad which describes “a single storage 101 housing multiple drums and collecting vessels” (Reply Br. 3). This contention assumes the claim is limited in scope to “a single storage space, a single drum, and a single collecting vessel”. But it is not so limited. The claim uses “comprising” language and, in the claim, each recited element is preceded by the indefinite article “a”. The indefinite article “a” preceding an element recited in a claim containing “comprising” language does not limit that element to a *single* element. “This court has repeatedly emphasized that an

indefinite article “a” or “an” in patent parlance carries the meaning of “one or more” in open-ended claims containing the transitional phrase “comprising.” *See Elkay Mfg. Co. v. Ebco Mfg. Co.*, 192 F.3d 973, 977 (Fed. Cir. 1999); *AbTox, Inc. v. Exitron Corp.*, 122 F.3d 1019, 1023 (Fed. Cir. 1997); *North Am. Vaccine, Inc. v. American Cyanamid Co.*, 7 F.3d 1571, 1575-76 (Fed. Cir. 1993); *see also* Robert C. Faber, *Landis on Mechanics of Patent Claim Drafting* 531 (3d ed. 1990). Unless the claim is specific as to the number of elements, the article “a” receives a singular interpretation only in rare circumstances when the patentee evinces a clear intent to so limit the article. *See AbTox*, 122 F.3d at 1023. “Under this conventional rule, the claim limitation ‘a,’ without more, requires at least one.” *KCJ Corp. v. Kinetic Concepts Inc.*, 223 F.3d 1351, 1356 (Fed. Cir. 2000).

For the foregoing reasons, we find the Appellant has not shown error in the rejection of claim 1. Because claims 2-9, 12, and 13 stand or fall with claim 1, their rejection has also not been shown to be in error.

The rejection of claims 10, 11, and 14-20 under § 103(a) as being unpatentable over Lundblad.

The Appellant has not challenged the rejection of claims 10, 11, and 14-20. We presume the Appellant is resting on the arguments made in challenging the rejection of independent claims 1 and 6. Since we did not find those arguments persuasive as to error in their rejection, we reach the same conclusion with respect to the rejection of claims 10, 11, and 14-20.

Appeal 2009-7425
Application 10/512,006

CONCLUSIONS

We conclude that the Appellant has not shown that the Examiner erred in rejecting claims 1-9, 12, and 13 under § 102(e) as being anticipated by Lundblad and claims 10, 11, and 14-20 under § 103(a) as being unpatentable over Lundblad.

DECISION

The decision of the Examiner to reject claims 1-20 is affirmed.

AFFIRMED

JRG

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